

Memorandum

District Court Vacates New HSR Rules

February 13, 2026

On February 12, the district court for the Eastern District of Texas issued a decision¹ vacating the new HSR Form adopted in 2024 (“New HSR Form”)—which had substantially expanded requirements for filings under the HSR Act—in a lawsuit filed by the U.S. Chamber of Commerce. The Court’s order is stayed for seven days to allow FTC to seek emergency relief. If the FTC does not secure a stay or it does not appeal, HSR filings would revert to the old Form for filings submitted on or after next Friday (February 20, 2026).

The Court’s decision to vacate is based on the following grounds:

The New HSR Form exceeds FTC’s statutory authority: The HSR Act requires the HSR form rules to be “necessary and appropriate” and the Court interpreted that requirement to mean the benefits of the New HSR Form outweigh the costs. The Court detailed that the old rule governed merger review effectively for nearly 50 years and that the New HSR Form—which FTC was not able to show would detect illegal mergers any more efficiently than the old rule—would take about 3x longer for parties to complete. FTC also purportedly failed to identify any illegal mergers that it had missed under the old HSR form that would be caught under the New HSR Form, leading the court to conclude the any proposed benefits could not be substantiated. As the Court put it, “the overall additional burden to comply with the Final Rule would be 239,020 hours . . . and would cost approximately \$139.3 million And yet, the benefits of the Final Rule identified by the FTC are illusory or, at least, unsubstantiated.”

The New HSR Form is arbitrary and capricious: Under federal law, agency rules are reviewed under an “arbitrary and capricious” standard to determine legality. Here, the Court held the New HSR Form to be arbitrary and capricious as FTC purportedly lacks any evidence that the New HSR Form would detect illegal mergers more effectively than the old HSR form. Additionally, the Court reiterated the cost/benefit analysis detailed above and held that FTC did not reasonably consider less costly alternatives that could be used to achieve FTC’s goals (such as voluntary disclosures before a second request).

The Court also dismissed FTC’s arguments that plaintiffs lack standing, holding that plaintiffs are associations whose members routinely enter into transactions that are notifiable under the HSR Act and that there is substantial risk of future harm.

¹ *Chamber of Com. of the United States v. FTC*, No. 6:25-cv-9-JDK, 2026 U.S. Dist. LEXIS 29275 (E.D. Tex. Feb. 12, 2026).

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FTC has not yet indicated whether it plans to appeal the decision. For now, merging parties should continue to prepare to file under the New HSR Form until next Friday unless FTC seeks and a court grants a stay pending appeal. The Simpson Thacher Antitrust team will provide an update once more information becomes available.

For further information regarding the issues raised above or any other aspects of the HSR Act and rules, please contact:

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